

GST Update

Weekly Update
21.06.2019

Background

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 15.06.2019. It supplements the earlier GST Updates.
- This presentation is based on CGST Act/Rules/ Notifications. Similar parallel provisions in State Laws may be referred to as required

- One CBIC Press Release and one PIB Press Release issued last week
- One Customs Circular on IGST Refunds
- One GST Notification issued last week
- 35th Meeting of the GST Council held

- http://www.gstcouncil.gov.in/sites/default/files/Press-Dynamic/pib-press-1_2.pdf
- **35th GST Council Meeting Recommendations**
- The due date for furnishing the annual returns in FORM GSTR-9, FORM GSTR-9A and reconciliation statement in FORM GSTR-9C to be **extended till 31.08.2019**
- The due date for furnishing FORM GST ITC 04, relating to job work, for the period July, 2017 to June, 2019 to be extended till 31.08.2019
- Last date for filing of intimation, in FORM GST CMP-02, for availing the option of payment of tax under Notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, to be extended from 30.04.2019 to 31.07.2019

- **New Returns**
- Between July, 2019 to September, 2019, the new return system (FORM GST ANX1 & FORM GST ANX-2 only) to be available for trial for taxpayers. Taxpayers to continue to file FORM GSTR-1&FORM GSTR-3B as at present;
- From October, 2019 onwards, FORM GST ANX-1 to be made compulsory. Large taxpayers (having aggregate turnover of more than Rs. 5 crores in previous year) to file FORM GST ANX-1 on monthly basis whereas small taxpayers to file first FORM GST ANX-1 for the quarter October, 2019 to December, 2019 in January, 2020;

- **New Returns**
- For October and November, 2019, large taxpayers to continue to file FORM GSTR-3B on monthly basis and will file first FORM GST RET-01 for December, 2019 in January, 2020. It may be noted that invoices etc. can be uploaded in FORM GST ANX-1 on a continuous basis both by large and small taxpayers from October, 2019 onwards. FORM GST ANX-2 may be viewed simultaneously during this period but no action shall be allowed on such FORM GST ANX-2;
- From October, 2019, small taxpayers to stop filing FORM GSTR-3B and to start filing FORM GST PMT-08. They will file their first FORM GST-RET-01 for the quarter October, 2019 to December, 2019 in January, 2020;
- From January, 2020 onwards, FORM GSTR-3B to be completely phased out

- <http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-25-central-tax-english-2019.pdf;jsessionid=8956222DD11B9FA1A865A4D8FC9B5865>
- Rule 138E of the CGST rules, pertaining to blocking of e-way bills on non-filing of returns for two consecutive tax periods, shall come into effect from 21.08.2019, instead of the earlier notified date of 21.06.2019

IGST Refunds



- <http://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2019/Circular-No-16-2019.pdf;jsessionid=6F2018FEA9EE7CB55D22E61CCB20DBA2>
- **Circular No. 16/2019-Customs dated 17th June, 2019**
- **Verification of IGST payments through the respective GST field formations**
- Identification of Suspicious cases: DG (Systems) shall work out the suitable criteria to identify risky exporters at the national level and forward the list of said risky exporters to Risk Management Centre for Customs (RMCC) and respective Chief Commissioners of Central Tax. DG (Systems) shall inform the respective Chief Commissioner of Central Tax about the past IGST refunds granted to such risky exporters (along with details of bank accounts in which such refund has been disbursed).

IGST Refunds(Contd)

- Inserting Alert in the System: RMCC shall insert alerts for all such risky exporters and make 100% examination mandatory of export consignments relating to those risky exporters. Also, alert shall be placed to suspend IGST refunds in such cases.
- Examination of the export goods: Customs officers shall examine the consignment as per the RMCC alert. In case the outcome of examination tallies with the declaration in the Shipping Bill subject to no other violation of any of provision of the Customs Act, 1962 or other laws being observed, the consignment may be cleared as per the regular practice.
- Suspension of IGST refunds: Notwithstanding the clearance of the export consignments as per para C above, such Shipping Bills shall be suspended for IGST refund by the Deputy or Assistant Commissioner of Customs dealing with refund at the port of export.

IGST Refunds(Contd)

- Verification by GST formations:
- Chief Commissioner of Central Tax shall get the verification of the IGST refund claims and other related aspects done in accordance with the Standard Operating procedure to be issued by the GST policy wing.
- The GST formation shall furnish a report to the respective Chief Commissioner of Central Tax within 30 days specifying clearly whether the amount of IGST paid and claimed/ sanctioned as refund was in accordance with the law or not.
- Chief Commissioner of Central Tax shall compile and forward report of all cases to RMCC and concerned customs port of export within 5 working days thereafter.

IGST Refunds(Contd)

- Action to be taken by customs formations on receipt of verification report from GST formations:
- Cases where no malpractices have been reported on verification: On receipt of verification report from Chief Commissioner of Central Tax informing that the ITC availed by the exporter was in accordance with the GST Law and rules made thereunder, the Customs officer at the port of export shall proceed to process the IGST refund to the extent verified by the GST Authorities. The detailed advisory in this regard shall be issued by DG(Systems) for the benefit of customs officers handling refunds.
- Cases where malpractices have been reported on verification: For cases where upon verification, it has been found that the exporter has availed ITC fraudulently or on the basis of ineligible documents and utilized the said ITC for payment of IGST claimed as refund, the customs officer will not process the refund claim.

Introduction of manual checks to curb large scale frauds in IGST refunds

- http://www.cbic.gov.in/resources//htdocs-cbec/press-release/Press_Release-IGST_refnds.pdf;jsessionid=9EAD6320E521094FA0678C178C001137
- CBIC Press release dated 20.06.2019
- CBIC has recently instructed its Customs and GST formations to verify the correct availment of input tax credit (ITC) by few exporters who are perceived as “risky” on the basis of pre-defined risk parameters.
- 5,106 risky exporters have been identified so far as against about 1.42 lakh total exporters. Thus the risky exporters are only 3.5% of the total exporters.

Introduction of manual checks to curb large scale frauds in IGST refunds (Contd)

- Further, in two days i.e. 17.06.2019 and 18.06.2019 only 1,436 Shipping Bills filed by total 925 exporters have been interdicted.
- Considering that about 20,000 Shipping Bills are filed by roughly 9,000 exporters on a daily basis, the intervention is negligible. Even for these risky exporters, the exports are allowed immediately. However, the refund would be released after verification of ITC within a maximum of 30 days.
- The new verification exercise is aimed at preventing unscrupulous exporters from defrauding the exchequer and bringing a bad name to the larger exporting community. CBIC would like to assure all genuine exporters that they would continue to get their IGST refunds in a timely manner in a fully automated environment.



GST Portal Updates

New Functionality



- **Registration process under GST linked with SPICe-AGILE Form of MCA**
- Normal and Composition taxpayer can now apply for GST registration, while applying for incorporation of company on MCA Portal. Thus, once a new company applies for its incorporation/ registration with MCA, they can also apply for registration under GST, in SPICe-AGILE form, by furnishing additional information in addendum.
- The Director signing the SPICe-AGILE form on the MCA portal is flagged as the Primary authorized signatory. The Address of Corporate office given is taken as Principal Place of business under GST and based on it, a taxpayer is allocated a particular State/ UT.

New Functionality

- **Registration process under GST linked with SPICe-AGILE Form of MCA**
- Information related to Additional places of business, other authorized signatory and other State Specific Information if any, can be updated by the applicant by filing amendment application on GST Portal, post grant of GSTIN.
- Any applicant desirous of taking registration in other States/UTs needs to apply afresh on the GST Portal.
- On successful processing at the MCA Portal, CIN, DIN and PAN are generated and information is sent to GST Portal for further processing.

New Functionality

- **Registration process under GST linked with SPICe-AGILE Form of MCA**
- All these type of registrations are treated as Voluntary registration (as reason for registration).
- On successful submission of SPICe-AGILE Form, an SRN (Service Request Number) is generated and shared with the applicant by MCA Portal, which can be further used by applicant to track application status, including GST registration status.
- **Filing clarification by GST Practitioner, on behalf of taxpayer**
- A GST Practitioner can now file clarification on behalf of a taxpayer, during suo-moto cancellation of its Registration application, which can be later on filed by the taxpayer.



GST Legal Updates

Online Fantasy Sports Gaming is not a game of chance – Cannot be considered betting gambling for purpose of GST

In Criminal Public Interest Litigation Stamp No.22 of 2019 - Gurdeep Singh Sachar Vs Dream 11 Fantasy Pvt Ltd (Respondent No.3)– Decided on 30th April 2019, the Hon’ble Bombay High Court held that online fantasy sports gaming is not a game of chance. It involves skill and expertise of the users and hence cannot be called as betting and Gambling for the purpose of GST.

Facts

The petitioner had filed the petition claiming himself to be a public spirited advocate practising in the Bombay High Court, and sought directions to initiate criminal prosecution against the respondent No.3- a Company named “Dream 11 Fantasy Pvt. Ltd.”, firstly for allegedly conducting illegal operations of gambling/betting/wagering in the guise of Online Fantasy Sports Gaming, which as per the petitioner shall attract penal provisions of Public Gambling Act, 1867, and secondly for alleged evasion of Goods & Service Tax (GST) payable by it by violating the provisions of Goods and Service Tax Act and the Rule 31A of CGST Rules, 2018

Online Fantasy Sports Gaming is not a game of chance – Cannot be considered betting gambling

Issues Framed by Court

- (a) Whether the activities of the respondent No. 3 amount to 'Gambling' \ 'Betting'?
- (b) Whether there is any merit in the allegation of violation of Rule 31A(3) of CGST Rules, 2018 and erroneous classification ?

On the first issue, the Hon'ble High Court held as under

“There is no merit in the submission that the result of their fantasy game/contest shall be considered as merely by chance or accident notwithstanding involvement of substantial skill.

The petitioner claims that the result would depend largely on extraneous factors such as, who amongst the players actually play better in the real game on a particular day, which according to the petitioner would be a matter of chance, howsoever skillful a participant player in the online fantasy game may be.

Online Fantasy Sports Gaming is not a game of chance – Cannot be considered betting gambling

The petitioner has lost sight of the fact that the result of the fantasy game contest on the platform of respondent No.3, is not at all dependent on winning or losing of any particular team in the real world game. Thus, no betting or gambling is involved in their fantasy games. Their result is not dependent upon winning or losing of any particular team in real world on any given day. In these circumstances, there is no plausible reason to take a contrary view than that taken by the Hon'ble Punjab and Haryana High court, which judgment has already been upheld by the Hon'ble Supreme Court in the SLP filed against the respondent No.3 itself. Moreover, the said issue is also covered by a judgment of 3 Judge Bench of the Hon'ble Supreme Court, to which detailed reference is made in the order of the Hon'ble Punjab and Haryana High Court. It is thus clear that the activity of the respondent No.3 do not amount to 'gambling' or 'betting' or 'wagering' even if the definition contained in Finance Act, 1994 is taken into consideration.”

Online Fantasy Sports Gaming is not a game of chance – Cannot be considered betting gambling

On the second issue, the Hon'ble High Court held as under

“In the instant case, admittedly, there is no dispute that the amounts pooled in the escrow account is an 'actionable claim', as the same is to be distributed amongst the winning participating members as per the outcome of a game. But, as held hereinabove since the activities of the respondent No.3 do not amount to lottery, betting and gambling, the said actionable claim would fall under Entry 6 of the Schedule III under Section 7(2) of CGST Act. Therefore, this activity or transaction pertaining to such actionable claim can neither be considered as supply of goods nor supply of services, and is thus clearly exempted from levy of any GST.”

Online Fantasy Sports Gaming is not a game of chance – Cannot be considered betting gambling

On the application of Rule 31A to the transaction of online gaming conducting by Dream11, the Hon'ble High Court held as under

“Since the actionable claim in the Online Fantasy Sport Gaming of the respondent No.3 are amongst such actionable claims as per Schedule III and Section 7(2) of the Act, which are not considered as 'supply of goods' or 'supply of services', Rule 31A has no application. Moreover, actionable claim referred to in Rule 31A is limited to only activities or transactions in the form of chance to win in “lottery” or “betting” or “gambling” or “horse racing in a race club”. Thus, Rule 31A which is restricted only to such four supplies of actionable claim, has no application in this case.”

The PIL was thus dismissed by the High Court.

Any ISSUES/ queries?



- <https://cbec-gst.gov.in/>
- [CBEC MITRA HELPDESK](#)
 - 1800 1200 232
 - cbecmitra.helpdesk@icegate.gov.in
- GSTN Help Desk
 - <https://selfservice.gstsystem.in/> - Grievance redressal portal
 - Help Desk Number: 0120-4888999

Any ISSUES/ queries?

- Twitter Handles
- For General Questions
- https://twitter.com/askGST_GoI
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- https://twitter.com/NACIN_OFFICIAL

THANK YOU